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Game Law of Missouri

AS AMENDED
BY THE
46th General Assembly



COMPLIMENTS OF
JESSE A. TOLERTON
STATE GAME AND FISH
COMMISSIONER

JEFFERSON CITY, MO.

CHART SHOWING OPEN SEASON.

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Turkey—Quail												
Duck—Geese—Brant—Snipe												
Plover—Dove												
Deer												
Squirrel												
Otter—Beaver—Muskrat												

NOTE: All birds other than game are protected at all times, except English Sparrows, Goshawks, Sharp Shinned Hawks, Great Horned Owls, Crows and Crow Blackbirds.

Woodcock, Prairie Chicken, Pheasant, Mongolian, Chinese and English Pheasant are protected at all seasons.

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Game Law of Missouri

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Sec. 6508. Title to birds, fish and game in state.

The ownership of and title to all birds, fish and game, whether resident, migratory or imported, in the state of Missouri, not now held by private ownership, legally acquired, is hereby declared to be in the state, and no fish, birds or game shall be caught, taken or killed in any manner or at any time, or had in possession, except the person so catching, taking, killing or having in possession shall consent that the title of said birds, fish and game shall be and remain in the state of Missouri, for the purpose of regulating and controlling the use and disposition of the same after such catching, taking or killing. The catching, taking, killing or having in possession of birds, fish or game at any time, or in any manner, by any person, shall be deemed a consent of said person that the title of the state shall be and remain in the state, for the purpose of regulating the use and disposition of the same, and said possession shall be consent to such title in the state. (Laws 1909, p. 519.)

The absolute ownership of wild game is vested in the people of the state. The legislature may make any restrictions it may deem proper, or prohibit the killing of game entirely. *State v. Heger*, 194 Mo. 707; *State v. Weber*, 205 Mo. 36. For a history of legislation on fish and game, and as to disposition of fines and penalties, see *State ex rel. v. Warner*, 197 Mo. 650. This statute includes fish artificially propagated and game raised in captivity. *State v. Weber*, 205 Mo. 36. But Sec. 6591 excepts shipment of elk and deer from private preserves.

Sec. 6509. Killing and transporting prohibited—game birds defined.—No person shall, within the state of Missouri, kill or catch, or have in his possession, living or dead, any wild bird other than a game bird, or purchase, offer or expose for sale, transport or ship, within or without the state, any such wild bird after it has been killed or caught, except as permitted by this article. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale, irrespective of whether said bird was captured or killed within or without the state. For the purpose

of this article the following only shall be considered game birds: The anatidae, commonly known as swans, geese, brant, and river and sea ducks; the rallidae, commonly known as rails, coots, mud-hens and gallinules; the limicolae, commonly known as shore birds, plovers, surf-birds, snipe, woodcock, sandpipers, tattlers and curlews; the gallinae, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges and quails; the columbae, commonly known as doves and pigeons; all other species of birds, either resident, migratory or imported, shall be considered non-game birds. Nothing in this article shall be construed to prevent the possession and sale of live canaries and parrots. (Laws 1909, p. 519.)

Sec. 6510. Nests and eggs not to be destroyed. No person shall, within the state of Missouri, take or needlessly destroy the nest or the eggs of any wild bird, nor shall have such nest or eggs in possession except as permitted by this article. (Laws 1909, p. 519.)

Sec. 6511. Penalty.—Any person who violates any of the provisions of sections 6509 or 6510 shall be guilty of a misdemeanor, and shall be liable to a fine of twenty-five dollars for each offense, and an additional fine of five dollars for each bird, living or dead, or part of bird, or nest or egg possessed in violation of this article. (Laws 1909, p. 519.)

Sec. 6512. Three preceding sections not to apply, when.—Sections 6509, 6510 and 6511, of this article shall not apply to any person holding a certificate giving the right to take birds and their nests and eggs for scientific purposes, as provided for in section 6513. (Laws 1909, p. 519.)

Sec. 6513. Certificates to be granted by game commissioner, when.—Certificates may be granted by the state game and fish commissioner to any properly accredited person of the age of fifteen years or upwards, permitting the holder thereof to collect birds, their nests or eggs, for strictly scientific purposes only. In order to obtain such certificates, the applicant for the same must present to the state game and fish commissioner written testimonials from two well known ornithologists, certifying to the good character and fitness of said applicant to be intrusted with such privilege; must pay to the

state game and fish commissioner two dollars to defray the necessary expenses attending the granting of such certificate. Certificates will become void upon proof that the holder of such certificate has killed any bird, or taken the nest of eggs of any kind, for other than the purposes named in sections 6512 and 6513 of this article, and the holder shall be further subject for each offense to the penalties provided therefor in section 6511 of this article. (Laws 1909, p. 519.)

Sec. 6514. Expiration of certificates.—The certificates authorized by section 6513 shall expire on the 31st day of December of the year issued, and shall not be transferable. (Laws 1909, p. 519.)

Sec. 6515. Certain birds not protected.—The English or European house sparrow, goshawk, Cooper's hawk, sharp shinned hawk, great horned owl, crow and crow blackbird (Bronzed Grackle), are not included among the birds protected by this article. (Laws 1909, p. 519.)

Sec. 6516. Periods certain birds may be killed—penalty.—No person shall take, capture or kill, by any means whatever, any game birds except the following named game birds between the following dates: Wild turkey, November 1st to December 31st of each year; quail (bobwhite, partridge), from November 1st to December 31st of each year; ducks, geese and brant, January 1st to April 30th and September 15th to December 31st of each year; snipe, January 1st to April 30th and September 15th to December 31st of each year; plover, September 1st to December 31st of each year; doves, September 1st to December 31st of each year. Any one who shall violate any of the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than fifty dollars for each offense, and an additional fine of five dollars for each bird injured, killed or possessed. (Laws 1909, p. 519.)

Sec. 6517. Killing certain birds prohibited—penalty.—Any person who shall take, capture or kill, except under permit, any woodcock, pinnated grouse (prairie chicken), ruffed grouse (pheasant), Mongolian, Chinese or English pheasant, or other resident, migratory or imported game bird except as provided in section 6516, shall be punished by a fine

of not less than twenty-five dollars nor more than fifty dollars for each offense, and an additional fine of five dollars for each bird captured, killed or possessed. (Laws 1909, p. 519.)

Sec. 6518. Aquatic birds not to be pursued, how—blinds prohibited—penalty—exception.—Any person who, in the pursuit of any wild duck, goose, brant, or other aquatic bird, upon the waters of this state, shall use any sneak boat, or any sail boat, or boat propelled by steam, naphtha, electric or other engine or machinery, or any battery, swivel gun or punt gun, or who shall kill or attempt to kill or pursue, while occupying or using any such boat, any wild geese, duck, brant, or other aquatic bird, or who shall construct or use, for the purpose of hunting, upon the ice, any fixed or artificial blind or ambush, shall be punished by a fine of not less than ten dollars nor more than fifty dollars: *Provided, however,* that it shall be lawful to shoot aquatic birds on the Missouri and Mississippi rivers from motor boats. (Laws 1909, p. 519.)

Sec. 6519. Devices, poisons, etc., prohibited—penalty.—No person shall at any time make use of any pit, pitfall, deadfall, scaffold, cage, snare, trap, net, salt lick, baited hook, or any other similar device, or any drug, poison, chemical or explosive, for the purpose of injuring, capturing or killing any birds or animals protected by the laws of this state, except as otherwise provided. No person shall pursue, catch, take or kill any birds, deer, wild turkey, wild ducks, wild geese, brant, or other aquatic bird or fowl, between sunset and the following sunrise. Any person violating any provision of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. (Laws 1909, p. 519.)

Sec. 6520. Regulating killing of deer—penalty. It is hereby declared unlawful to kill or attempt to kill any deer in the state of Missouri under one year of age. It is further declared unlawful to kill any deer of any age between the first day of January and the first day of November of each year, and for the purpose of preventing the extinction of the species it is hereby declared unlawful to kill any doe. It is further declared unlawful to make use of any artificial light in hunting or killing deer; and the

wearing or having such light on the head shall be *prima facie* evidence of the violation of this section. It is also declared unlawful for any person to wound, kill or capture any deer in the waters of the streams, ponds or lakes within the jurisdiction of this state, or to have in possession or transport at any time the carcass of any deer, or any portion of such carcass, unless the same has thereon the natural evidence of its sex. Any person violating the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. (Laws 1909, p. 519.)

Deer raised in captivity were held to be included in the corresponding section of the Laws of 1905, p. 158. *State v. Weber*, 205 Mo. 36. See, also, Sec. 6591.

Sec. 6521. Regulating killing of squirrel, etc.—penalty.—No person shall pursue, injure, capture, kill or destroy any gray squirrel, fox squirrel (American squirrel) or black squirrel only from July 1st to December 21st, both inclusive; nor shall any person pursue, injure, capture, kill or destroy any such squirrels at any time in any public or private park. No person shall catch, take or kill, or attempt to catch, take or kill, any otter, beaver or muskrat, between the first day of April and the first day of November: *Provided*, that any person may protect his premises from the ravages and depredation of animals named in this section at any time and in any way. Any person who shall violate any of the provisions of this section shall be punished by a fine of not less than five dollars nor more than twenty-five dollars. (Laws 1909, p. 519.)

Sec. 6522. Right to kill—number—retain, what length of time—penalty.—The right given by this article to take or kill deer or birds, or to have in possession, unless otherwise specified, is limited to food purposes and to one deer, two turkeys and twenty-five birds of any other family for each person in any one calendar day, and no person shall take, kill or have in possession at any one time more than two deer, four turkeys and fifty birds of any other family. No birds, game or fish, protected by this article, shall be held in possession by any person for more than five days after the close of the season for killing the same. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof,

shall be fined not less than twenty-five dollars nor more than fifty dollars. (Laws 1909, p. 519.)

Sec. 6523. Consignee to notify commissioner, when—penalty.—Any persons, firm or corporation, to whom is consigned any birds, game or fish, the killing, sale or possession of which is at any time or at all times prohibited, shall, upon receipt of same, immediately notify the state game and fish commissioner, or any of his deputies, and safely keep such game, birds or fish in his possession or under control, subject to the order of said game commissioner. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than fifty dollars. (Laws 1909, p. 519.)

Sec. 6524. Game in close season—penalty.—Any person who shall have in his possession or under his control any variety of fish, game or birds during the close season prescribed by law therefor, or any carcass or flesh thereof, except for scientific or propagating purposes, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars. (Laws 1909, p. 519.)

Sec. 6525. Selling prohibited—penalty.—Any person, firm or corporation who shall at any time of the year barter, sell, or offer for sale, in this state, either under the name used in this article or under any other name or guise whatever, any animals or birds protected in this article, whether taken within or without this state, or lawfully or unlawfully taken, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, and an additional fine of five dollars for every bird or animal or part of every bird or animal sold or offered for sale. (Laws 1909, p. 519.)

The provisions of this section are constitutional, and do not interfere with interstate commerce regulations. *State v. Heger*, 194 Mo. 707; *State v. Weber*, 205 Mo. 36.

Sec. 6526. Cost of arrest, how taxed.—When an arrest for a violation of this article is made by any commissioner and the defendant is convicted, there shall be taxed as costs in favor of such commissioner making the arrest the same fees as a constable is entitled to in a case of misdemeanor, and, if collected from the defendant, shall be paid over to such

a commissioner, and shall be his personal perquisite, for which he need not account, but no fees shall be allowed in case of acquittal, nor shall any county or the city of St. Louis be liable for such fees in any event. (Laws 1909, p. 519.)

Sec. 6527. Liable for attempt—accessories liable.

Any attempt to violate any provisions of this article shall be punished to the same extent as an actual violation thereof. Any such attempt, or any violation by an agent, clerk, officer or employe, while acting for any other person, shall render such party liable also, and an accessory may in all cases be prosecuted and punished as a principal. (Laws 1909, p. 519.)

Sec. 6528. Definition of terms—sufficiency of indictment.—As used in this article, unless otherwise specifically restricted or enlarged, the words herein and hereof refer to the whole article; the words person, owner, proprietor, grantee, lessee or licensee include a firm, association, corporation or municipality; the word commissioner means the state game and fish commissioner or deputy commissioner provided for herein; the word officer includes every person authorized to enforce this article; the words close season mean that season in which the birds, game or fish shall not be killed or possessed, and whenever the possession, use, importation, transportation, storage, taxidermy, sale, offering or exposing for sale of fish, game or birds is prohibited or restricted, the prohibition or restriction shall extend to and include every part of such fish, game or bird, and a violation as to each individual animal, fish or bird, or part thereof, shall be a separate offense, and two or more offenses may be charged in the same complaint, information or indictment, and proof as to a part of a fish, bird or animal shall be sufficient to sustain a charge as to the whole of it; and violations as to any number of animals, fish or birds of the same kind may be charged in the same count and punished as a separate offense as to each animal, bird, fish or game. (Laws 1909, p. 519.)

Sec. 6529. Warrant, how served on corporation.

In case of a violation of this article by a corporation, the warrant of arrest may be read to the president, secretary or manager in this state, or any general

or local agent thereof in the county where the action is pending, and upon the return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation, but this section shall not be deemed to exempt any agent or employe from prosecution. (Laws 1909, p. 519.)

Sec. 6530. Imprisonment for failure to pay fine. Whenever, upon conviction, the person convicted fails to pay the fine and costs imposed upon him, he shall be committed to the jail of the county, or the city of St. Louis, or to some workhouse, and shall there be kept confined one day for each dollar of fine and costs adjudged against him, and he shall not be discharged or released therefrom by any board or officer, except upon payment of the portion of the fine and costs remaining unserved, or upon the order of the governor of this state. (Laws 1909, p. 519.)

Sec. 6531. Liable for wildfire—penalty.—No person shall set fire to any timber or grass on land belonging to this state or to the United States, or set fire to any place where it is liable to spread to such timber or grass, nor abandon any camp fire unextinguished. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than two hundred dollars. (Laws 1909, p. 519.)

Sec. 6532. Failure of officer to perform duty—penalty.—Any official, officer or commissioner who shall fail to perform any act, duty or obligation enjoined upon him by the game and fish laws shall be guilty of misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs of prosecution. (Laws 1909, p. 519.)

Sec. 6533. Limitation of prosecution.—Prosecutions under this article may be commenced within one year from date of violation of any provision of this article, either by indictment, complaint or information. (Laws 1909, p. 519.)

Sec. 6534. Printing.—The blanks and other printing necessary to carry out the provisions of this article shall be printed under the direction of

the commissioners of public printing in the form to be prescribed by the state game and fish commissioner, to be paid for in like manner and upon the same terms as other public printing. (Laws 1909, p. 519.)

Sec. 6535. Obstructing free passage of fish—penalty.—It shall be unlawful for any person or persons to place, or cause to be placed or erected, any seine, screen, net, weir, fish dam or other obstruction in or across any of the waters, rivers, creeks, ponds, streams, sloughs or other water course within the jurisdiction of this state in such a manner as will obstruct the free passage of fish up and down and through such water or water courses. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and be fined, upon conviction, not less than fifty dollars nor more than two hundred dollars, and costs of prosecution. (Laws 1909, p. 519.)

See Sec. 5482 and notes.

Sec. 6536. Contamination of streams—penalty. It shall be unlawful for any person or persons, firm or corporation to cause any dye stuff, coal tar, oil, sawdust, poison or deleterious substances to be thrown, run or drained into any of the waters of this state in quantities sufficient to injure, stupefy or kill fish which may inhabit the same at or below the point where any such substances are discharged or caused to flow or be thrown into such waters: *Provided*, that it shall not be any violation of this section for any person, firm or corporation engaged in any mining industry to cause any water handled or used in any branch of such industry to be discharged on the surface or land where such industry or branch thereof is being carried on. Any person or persons, firm or corporation offending against any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than two hundred dollars nor more than five hundred dollars for each offense. (Laws 1909, p. 519.)

See *State v. Light etc. Co.*, 212 Mo. 101, holding that a section with the provisions contained in this section would be valid.

Sec. 6537. Explosives prohibited—penalty.—The use of dynamite or explosives in any of the waters of this state is prohibited except by the special per-

mission and under the supervision of the state game and fish commissioner, and then only for mining or mechanical purposes, or to recover the bodies of persons. Any person, firm or corporation offending against any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than five hundred dollars nor more than one thousand dollars for each offense. (Laws 1909, p. 519.)

See Sec. 6538 and notes.

Sec. 6538. Poison and explosives not to be used to kill fish.—No person shall place or use in any of the waters of this state any medicated drug, any cocculus indicus, or fish berry, or any other poisonous thing or substance, calculated to poison, kill or injure any fish, nor shall by such means kill, catch or take any fish that may be in said waters, and no person shall place any dynamite, giant powder, nitroglycerine or any explosive substance of which nitroglycerine composes a part, or any other explosive substance or preparation, in any of the waters of the state, whereby any fish that may be in said waters may be killed, injured or destroyed, and no person shall by such means kill, catch or take any fish from said waters. (R. S. 1899, § 7456.)

This section and Sec. 6546 were not repealed by Sec. 29, Laws 1905, p. 158, which was the same as Sec. 6537. They define different offenses with different punishments, and both are valid. *State v. Hodges*, 214 Mo. 376. See, also, *State v. Light etc. Co.*, 212 Mo. 101; *State v. Hodges*, 207 Mo. 517.

Sec. 6539. Permit to keep explosives.—No person, corporation or joint-stock company shall have, retain or keep in his possession or under his or its control, nor sell, give away or in any manner or way dispose of dynamite, giant powder, nitroglycerine or any explosive substance of which nitroglycerine composes a part, or any other explosive substance, except gunpowder and blasting powder for ordinary purposes, without first obtaining a permit authorizing the same from the clerk of the county court, or mayor of the city of St. Louis, in whichever county or city such applicant may desire to do such business, nor without first making and delivering the affidavit required by the next succeeding section of this article. (R. S. 1899, § 7457.)

Sec. 6540. Affidavit of persons keeping explosives.—Any person, corporation or joint-stock company desiring to continue in or engage in the dealing or sale of any of the articles mentioned in the foregoing section, shall make the following affidavit before some officer authorized to administer oaths, to wit:

“(A B), desiring to deal in (here name the articles or part of them described in the foregoing section), do solemnly swear that I will not use the same unlawfully, nor use it or any part thereof in catching or killing fish, nor permit any one in my employ so to do, if in my power to prevent it; that I will not sell, give away or in any way dispose of any of said articles, or part thereof, to any person until he or they shall deliver to me the affidavit required to be made by purchasers as provided for by sections 6538 to 6547, Revised Statutes, 1909; which affidavit of such purchaser I will file with the clerk of the county court of — county (or with the mayor of the city of St. Louis), as required by said sections.”

(R. S. 1899, § 7458.)

Sec. 6541. Permits, form of—to be registered. Any person desiring a permit to deal in any of the explosive articles described in this article may present to and file with the clerk of the county court of the county in which he desires to do such business, or if he desires to do such business in the city of St. Louis, then to the mayor thereof, an affidavit as required by the foregoing section, whereupon such clerk, or mayor, shall issue a permit to such person, or to his agent for him, in the words or to the effect following:

“State of —, county of — (or city of St. Louis). A B of —, Missouri, is hereby permitted to deal in explosives at — county, Missouri. Witness my hand and seal, etc., date, etc.”

Such mayor or clerk shall keep a book in which shall be recorded a memorandum of all permits granted under this article, and of all affidavits filed with them under the provisions thereof, and shall also carefully preserve all such affidavits, free to the inspection of all citizens of this state: *Provided*, such affidavit required of corporations or joint-stock companies may be made and filed by any agent or officer thereof. (R. S. 1899, § 7459.)

Sec. 6542. Affidavit of person purchasing explosives.—Any person, corporation or joint-stock company desiring to procure for their own use any of the explosives described in this article, shall make an affidavit and deliver it to any one authorized

under this article to deal in such articles, which affidavit shall be in the following form or to the effect following, to wit:

"I (C D), desiring to procure from — the following explosives, ———, to be used for lawful purposes, do solemnly swear that I will not use them, or any part thereof, for unlawful purposes, nor in catching nor killing fish in any of the waters of this state, nor permit them to be so used by others, if in my power to prevent it; that I will not sell or give away any of said articles, or permit any of said explosives to go from under my control to any other person."

Provided, that such affidavit may be made by any agent of any corporation or joint-stock company, or officer thereof, in order to procure for its lawful use any of such articles; and such dealer selling or disposing of such articles shall, within five days, file such affidavit so delivered to him with the county clerk, or the mayor of St. Louis, if the purchase is made in that city. (R. S. 1899, § 7460.)

Sec. 6543. Possession of explosives a misdemeanor, when.—Any person, corporation or joint-stock company not having obtained a permit as required by this article, and all persons, corporations or joint-stock companies not having made and delivered the affidavit required by this article, who shall have in their possession or under their control any of the explosive articles named in this article, or who shall fail to file the affidavit required of purchasers of them, as required by this article, shall be deemed guilty of a misdemeanor, and on conviction, punished by a fine of not less than fifty dollars. (R. S. 1899, § 7461.)

Sec. 6544. Permits to be delivered—fees.—It shall be the duty of the county clerks, and of the mayor of the city of St. Louis, to deliver to all persons permits who shall comply with the provisions of this article, and for the preparation of and attestation to affidavits and executing permits may charge and receive twenty-five cents each from the person to whom issued. (R. S. 1899, § 7462.)

Sec. 6545. Officers to enforce law—sections to be given in charge to grand juries.—It shall be the duty of all sheriffs and their deputies, constables and their deputies, and all prosecuting attorneys and their assistants, within their respective counties, and the city of St. Louis, to diligently aid in enforcing the provisions of all laws in relation to the protec-

tion and preservation of fish in the waters of this state, and sections 6538 to 6547 of this article shall be given in special charge to the grand juries, by all courts having criminal jurisdiction, by indictment. (R. S. 1899, § 7463.)

Sec. 6546. Violation of law a felony—penalty. Any person who shall violate any of the provisions of sections 6538 to 6545, inclusive, or fail to truthfully observe the provisions and requirements of any affidavit made by him, under the provisions of said sections shall, on conviction, be adjudged guilty of a felony, and punished by imprisonment in the penitentiary for a term not exceeding two years, or by imprisonment in the county jail not less than thirty days, or by fine not less than one hundred dollars, or by both such fine and imprisonment. (R. S. 1899, § 7464.)

Sec. 6547. Disposition of fines recovered.—One-half of all fines collected upon convictions under the provisions of sections 6538 to 6545, inclusive, shall be paid to the informer or prosecutor, and the other half paid into the county school fund, and all officers, their deputies and assistants, required by said sections to aid in their enforcement shall be considered informers and prosecutors in all cases where they shall originate prosecutions for any violations of the provisions of said sections. (R. S. 1899, § 7465.)

Sec. 6548. Use of nets and seines prohibited—penalty.—It shall be unlawful for any person or persons to take, catch or kill any fish in any of the waters of this state by means of any seine, trammel net, gill net, fish trap or any other kind of net, trap, device or means other than by ordinary hook and line, gig spear and trotline: *Provided*, it shall be unlawful for any person to take, catch or kill more than fifty pounds of fish in any one day, with gig or spear, excepting in the Missouri or Mississippi rivers. This law shall not apply to ponds or reservoirs wholly on the premises belonging to any person using such devices. It shall also be unlawful for any person or persons to take, catch or kill any fish in any of the waters of this state by any means whatever during the month of May, except by ordinary hook and line or trotline. Seining shall be lawful and allowed in the Mississippi and Missouri rivers, but not within three hundred yards of the mouth of any stream

emptying into said rivers, during the months of January, February, March, July, August, September, October, November and December with seines, the meshes of which shall not be less than two inches square. Any person may use a small seine, not more than 20 feet in length and four feet in width, known as a minnow seine, for catching minnows to be used for bait only. Any person offending against the provisions of this section shall be guilty of a misdemeanor, and shall be subject to a fine of not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars: *Provided*, the provisions of this article shall not apply to the netting, seining, or catching in any manner or the selling, buying or shipping of any fish of any description by a bona fide resident of this state whenever any such fish, so bought, sold or shipped, shall have been caught out of any pond or slough, which are of only temporary formation in their nature and caused wholly from overflowed waters. *Provided, further*, that any person or persons owning land along any unnavigable stream, or by permission from said landowner, in this state, may take fish from such stream during the months of July, August and September, for his or their own consumption or table use, with common two-inch mesh net seine: *Provided*, it shall be a misdemeanor to offer for sale fish so taken. (New section.)

Approved March 27, 1911.

Sec. 6549. Fishing near ladder or under ice prohibited—penalty.—It is hereby declared unlawful to catch, take or kill any fish in any manner in the waters of this state within a distance of two hundred feet on either side of any fish way or fish ladder erected or maintained in compliance with the laws of the state, or to take, catch or kill any fish in any manner in any water of this state upon the surface of which ice is frozen. Any person violating the provisions of this section shall, upon conviction, be fined not less than ten dollars nor more than fifty dollars. (Laws 1909, p. 519.)

Sec. 6550. Sale of certain fish prohibited.—It shall be unlawful to sell or offer for sale any of the following named fishes mentioned below which are less than the length specified for each: Trout, eight inches; pike, eleven inches; jack salmon, eleven inches; crappie, eight inches; bass, eleven inches.

Said fish to be measured from end of nose to fork of tail. (Laws 1909, p. 519.)

Sec. 6551. Pearl fishing prohibited—what seasons.—It is hereby declared unlawful for any person to engage in what is commonly known as "pearl fishing" in any of the waters of this state at any time during the months of March, April, May and June. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense. (Laws 1909, p. 519.)

Sec. 6552. Owner of mill dams—duty to make fish chute.—It shall be the duty of the owners or occupants of any dam across any stream in this state, and the owner or occupant of any dam hereafter constructed across any stream in this state, or the owner, occupant, firm, corporation, company, persons using such dam or dams, or enjoying the use of the same for any manufacturing purposes whatever, or for the purpose of furnishing water to propel any machinery, to cause to be erected in such dam or dams such permanent chutes or fish ladders, and of such construction and material as shall be prescribed by the state game and fish commissioner of this state, such chutes or fish ladders to be completed and placed in all dams in existence at the date of the passage of this article on or before the first day of November, 1909, and all dams hereafter built shall be constructed with such chutes or fish ladders at the time of building of said dams. All such chutes or fish ladders shall be maintained and kept in good repair by the owners or occupants of such dam or dams or by the person using the water thereof, as aforesaid, during the whole time of the existence of said dam or dams; and they shall keep said chutes and fish ladders open for the free passage of fish during all the months of March, April, May and June of each year: *Provided*, that on all streams, where there is not a surplus of water for all legitimate purposes of the dam owner during the months of March, April, May and June, the said owner shall only be required to keep such chute open when there is waste water and to cause such waste water to pass through such chute sufficient to furnish free passage for fish up such stream. (Laws 1909, p. 519.)

FIG. 1.

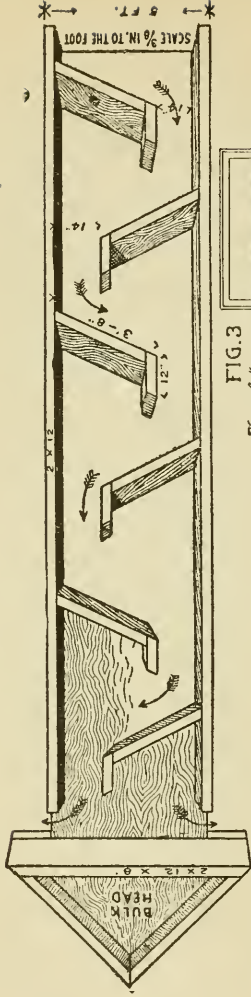
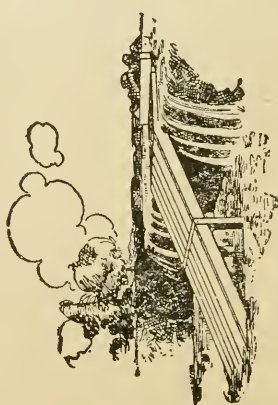
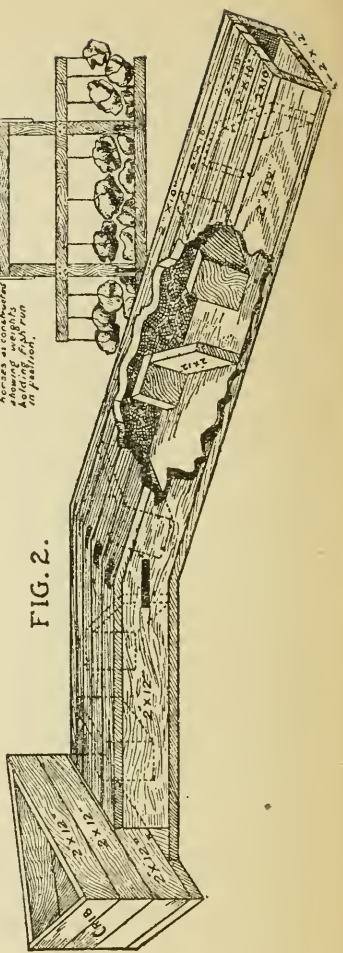


FIG. 3

*View of knees or
horses as constructed
showing weights
holding fish run
in position.*

FIG. 2.



Fish Ladder, or Chute, With Specifications

*As Adopted for Use in Missouri Streams by Jesse A. Tolerton,
State Game and Fish Commissioner.*

CRIB OR BULKHEAD.

Construct of white oak, cypress, pine or other durable wood, 2x12 "joist stuff." Mitre and bolt the corners thoroughly in order to resist the drift which might float down and strike bulkhead. Bolt the sides of bulkhead at the bottom at corners with strap irons, full length on sides, and nut and washer on under side of bottom. The top crib on top of bulkhead should project or stand out of the water at least two feet higher than the main chute.

Fill the crib and bulkhead with heavy stone or concrete, sufficient in weight to anchor the chute firmly down to dam. Always recess the chute into dam, sufficient to let full current of water flow through the fish way at low water mark; the top of the chute must always be under water.

If current is too strong to put chute in place, a temporary coffer dam of sand bags may be constructed in checking the flow of water until chute is in place and bulkhead weighted down. Sand bags should be removed when chute is completed.

CHUTE OR RUNWAY.

Construct the chute of two-inch material (white oak). Build first the chute from the crib, letting 2x12 bottom pieces extend through under bulkhead. In making joints see to it that they come on the arms. Bolt the 2x12 arms to bottom and top with two one-half inch bolts to each arm, letting them run clear through. Also use plenty of spikes in securing all parts together. The runway of the chute must extend to within two feet of the bottom of the river, and into the pool below the dam. It may be placed at either one side or in the center of the dam, but must be placed in the channel of the stream and where the greatest depth is always to be found.

Cover the entire chute with two-inch white oak planks, leaving a two-inch space between the planks for the purpose of cleaning out the pockets. Use plenty of wire nails in the construction. Support the slanting chute from the bottom of the stream by knees or horses on proper and sufficiently strong supports. The length of the chute is determined by the height of the dam, the fall being 4 feet to every one foot of height of the dam. In securing the chute to the horses or knees, place an iron band over the chute and extend down and bolt on to the upright supports in order that the two will be securely made fast together.

At the bottom of horses or supports find or form a solid bottom, and bolt firmly a cross arm from one to the other, extending on either side about 2 feet in the clear of the runway, and on this arm secure by wiring sufficient weight to anchor and hold fast the lower end of chute to within 2 feet of bottom of stream during high or low water, so it will not be inclined to float. Keep both these lower and upper ends of the chutes always clear of debris for the free passage of fish.

In connecting the slanting part of chute to the level part which lays in the dam, use strap irons bolted to each section securely, place one across each joint, on sides, top and bottom. Should dam be of such height as to need several sections, always put sufficient supports, well secured and bolted and weighted down.

Estimated amount of material needed to construct a fish chute 5 feet wide upon dam with 8 feet fall, the top of dam being 6 feet wide. It will be noted that 8 feet is far in excess of the height of most dams.

9—2x12x8 bulkhead and crib sides	144 ft.
5—2x12x12 bulkhead bottom and level chute	120 ft.
10—2x12x16 chute bottom, 32-foot run	320 ft.
5—2x12x16 chute sides, 32-foot run	160 ft.
10—2x10x16 chute top, 32-foot run	268 ft.
5—2x12x10 chute pockets or arms	100 ft.
5—6x 6x16 knees or horses	240 ft.
1 yard rock to weight bulkhead.	
3 strap bolts, 36 inches long, for bulkhead and crib.	
12 bolts, $\frac{1}{2}$ x12 inches for bulkhead.	
24 bolts, $\frac{1}{2}$ x16 inches for arms.	
25 pounds spikes.	
24 strap irons for joints in chute. Carpenter and dray.	

Sec. 6553. Game commissioner to prepare plan for fish chute.—It shall be the duty of the state game and fish commissioner of this state to procure a draft of a general plan on a scale of such construction as will in his opinion best subserve the free passage of large and small fish, both up and down the small streams at the dam, on which plan shall be designated the greatest allowable slope per foot run on said chutes or fish ladders when in place in the dam; also, the proper width and depth, together with such other details and specifications in respect to materials and construction, and connection with the dam, as will enable an ordinary carpenter to properly construct and place the same. (Laws 1909, p. 519.)

Sec. 6554. Game commissioner to inspect dams. The state game and fish commissioner is hereby made inspector of dams during his term of office, and it shall be his duty to cause to be constructed by the owner of said dam a fish chute or ladder as provided by the terms of this article, the expense thereof to be paid by the owner or occupant enjoying the use of said dam. It shall be the duty of the state game and fish commissioner to prosecute, in the name of the people, with the aid of the prosecuting attorney of the county, in all cases where this law is not complied with. (Laws 1909, p. 519.)

Sec. 6555. Penalty for failure of dam owner to construct chute.—If the owner or occupant, or any firm, corporation, company, person or persons, using or enjoying the use of any dam or dams across any stream in this state which is now built, or which may be built hereafter, shall fail to comply with all the provisions of this article with respect to the construction and maintenance in good repair of such chutes and fish ladders in any such dam or dams, after having been notified in writing by the state game and fish commissioner to construct the same, he or they shall be guilty of a misdemeanor, and for each thirty days that such owner or occupant shall neglect or refuse to comply with all the provisions of this article applicable to him or them, he or they shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars. (Laws 1909, p. 519.)

See Sec. 5482 and notes.

Sec. 6556. Corporation owning dam—who liable.—In respect to the construction and maintenance of fish chutes or fish ladders at dams owned by corporations, the duties and liabilities imposed by this article shall devolve and be imposed upon the president, secretary or manager in this state or any general or local agent thereof. (Laws 1909, p. 519.)

Sec. 6557. Governor to appoint game and fish commissioner—salary.—It shall be the duty of the governor to appoint some person skilled in matters relating to birds, game and fish, a resident of this state, game and fish commissioner, who shall hold his office for a term of four years and until his successor has been appointed and qualified. He shall receive a salary of twenty-five hundred dollars per annum, payable monthly out of the game protection fund, in the same manner as other state officers are paid. (Laws 1909, p. 519.)

Sec. 6558. Game commissioner shall file statement, with whom.—The game and fish warden may provide and maintain a suitable office, and may maintain a clerk when necessary. At the end of each calendar month the said game and fish commissioner shall file with the state auditor an itemized statement, under oath, of all sums of money actually and necessarily expended by him in the discharge of his official duties. Such statement shall include office rent, salary of one clerk at the rate of two and one-half dollars per day while said clerk is employed, salaries and expenses of deputies while traveling under special orders, as hereinafter provided, all necessary traveling expenses, postage, stationery, fuel and such incidental expenses as may be required. The state auditor shall draw his warrant for such amount, which shall be paid monthly out of the game fund. (Laws 1909, p. 519.)

Sec. 6559. Game commissioner shall give bond. Before entering upon the discharge of his official duties the game and fish commissioner shall give bond in the sum of five thousand dollars to the state of Missouri, with two or more sureties, to the acceptance of the secretary of state, conditioned that he will truly account for and apply all moneys which may come into his hands in his official capacity, and that he will faithfully perform the duties enjoined

upon him by law; and he shall take and subscribe the oath or affirmation required by the Constitution of the state. (Laws 1909, p. 519.)

Sec. 6560. Game commissioner shall keep a seal. The game and fish commissioner shall keep a seal of office, which shall be used to authenticate all papers and documents issued and executed by him as such officer. (Laws 1909, p. 519.)

Sec. 6561. Game commissioner shall make report to governor—when—what.—In the month of January of each year the game and fish commissioner shall make a report to the governor, showing the official business transacted by him. Such report shall show the number of hunters' licenses issued, together with all fees proceeding therefrom. It shall show what moneys have been received by the game and fish department from other fees and other sources. It shall show the number of deputies employed and shall give all necessary information concerning the affairs of the game and fish department, said report to be published in pamphlet form. (Laws 1909, p. 519.)

Sec. 6562. Duties of game commissioner.—It shall be the duty of the game and fish commissioner to enforce all laws now enacted and which may be hereafter enacted for the protection, preservation and propagation of the game animals, birds and fish of this state, and to prosecute, or cause to be prosecuted, all persons who violate such laws. Said game and fish commissioner may make complaint and cause proceedings to be commenced against any person for the violation of such laws, and he shall not be obliged to furnish security for costs. Said game and fish commissioner shall at any and all times seize any and all birds, animals and fish which have been caught, taken or killed at a time, in a manner, or for a purpose, or had in possession, or which had been shipped, contrary to the laws of the state. (Laws 1909, p. 519.)

Sec. 6563. Certain articles forfeited to state.—The unlawful use of any articles contrary to the provisions of the game and fish law shall forfeit the same to the state, and upon their being found by law under any of the conditions prohibited by this article, shall be destroyed. (Laws 1909, p. 519.)

Sec. 6564. Game commissioner may examine

packages—penalty for refusal to allow examination. All birds, animals or fish seized by the said game and fish commissioner shall be donated to some charitable institution in the county where such seizure was made. It is hereby made the duty of every warehouse, cold storage plant, merchant or common carrier, agent, servant or employe thereof, to permit the game and fish commissioner to examine any package in the possession of said warehouse, cold storage plant, merchant or common carrier, or agent, servant or employe thereof, which the said game and fish commissioner shall suspect or have reason to believe contains fish, birds or game protected by the laws of the state, and not entitled under such law to be transported or had in possession, or when the said game and fish commissioner shall suspect or have reason to believe that the said package is falsely labeled. Any person, firm or corporation refusing the game and fish commissioner, or any officer charged with the enforcement of the game and fish laws, permission to examine or open any such package or impede such action by the game and fish commissioner, shall be punished by a fine of not less than fifty dollars nor more than one hundred and fifty dollars. Said game and fish commissioner shall not be liable for damages on account of any search, examination or seizure made in accordance with the provisions of this article. (Laws 1909, p. 519.)

Sec. 6565. Commissioner may serve warrants—may arrest without warrant, when.—Said game and fish commissioner shall have the same power to serve criminal processes as sheriffs or marshals, and shall have the same right as sheriffs or marshals to require aid in the execution of such process; said game and fish commissioner may arrest without warrant any person caught by him in the act of violating any of the laws of the state for the protection or propagation of birds, game and fish, and take such person forthwith before a justice of the peace or any court having jurisdiction, who shall proceed without delay to hear, try and determine the matter, the same as in other criminal cases. (Laws 1909, p. 519.)

Sec. 6566. Commissioner may appoint deputies—compensation.—The game and fish commissioner

shall have power to appoint at any time one or more deputies from each congressional district, who shall assist him in the discharge of his duties, and said deputies shall have like power and authority herein provided for the game and fish commissioner; but such deputies shall be subject to the supervision and control of the game and fish commissioner and subject to removal by him. Such deputies shall each receive a per diem of three dollars for each day while under the direct orders of the state game and fish commissioner to perform services in the enforcement of the fish, game and bird laws, and their actual necessary expenses incurred while working under the direction of the state game and fish commissioner, which expenses shall be paid monthly upon vouchers verified under oath and approved by the state game and fish commissioner out of the game protection fund. (Laws 1909, p. 519.)

Sec. 6567. Commissioner to publish and distribute laws relating to game.—The state game and fish commissioner shall cause to be published in pamphlet form, for general distribution, the laws relating to game, birds and fish. (Laws 1909, p. 519.)

Sec. 6568. Commissioner may issue permits, when—to whom.—The state game and fish commissioner may issue permits to any person to take, capture, kill, transport within or without this state, or import into this state, any game, fish or bird mentioned in this article, at any time when satisfied such person desires the same exclusively as specimens or for scientific or propagating purposes. Such permit shall be in writing, and shall state the kind and number to be taken and the manner of taking, the name of the person to whom issued, if imported into this state, the name of the state or territory, the name of the person shipping such birds, fish or game, and shall be signed by him; such permits shall not be transferable, nor shall it be lawful to sell or barter any of the birds, fish or game taken or imported under such permit for food purposes, and the holder of such permit shall be liable to the penalties provided in this article if he violates any of its provisions. Such permits shall be issued upon payment of five dollars and shall expire December 31st of the year issued. (Laws 1909, p. 519.)

Sec. 6569. Taxidermy—who shall engage in.—

It shall be lawful for any person in the state of Missouri to engage in the art and business of taxidermy after first showing that he is skilled in such business and taking out a permit from the game and fish commissioner therefor, and it shall be lawful for any such licensee to receive from any person the carcass of any wild bird or game animal lawfully killed or any part thereof, to be mounted or preserved by the art of taxidermy, and to ship to any person the same, after being so mounted or preserved, by attaching to such shipment a tag, stating the name of the taxidermist and the number and date of his permit. It shall be lawful for any person in the state of Missouri, being a taxidermist, with permit and holding a permit for scientific collecting, to dispose of specimens for scientific and instructive purposes. The permit for the business of taxidermy shall be issued by the state game and fish commissioner upon the payment of one dollar, and such permit shall be good only during the calendar year of issue and shall not be transferable. (Laws 1909, p. 519.)

Sec. 6570. Commissioner may transmit specimens to other state wardens, when.—The state game and fish commissioner may, upon application from the game and fish commissioner, or corresponding officer, of any other state or territory, procure and transmit to such officer live specimens of the game animals, birds or fish of this state, to be used for scientific or propagating purposes. (Laws 1909, p. 519.)

Sec. 6571. May remove fish, when.—The state game and fish commissioner may take at such time and in such manner from public waters of this state fish which, in his judgment, hinder or prevent the propagation of game or food fish, or when fish are in danger of perishing. Such removal shall be effected by such means and under such regulations as the state game and fish commissioner may provide. So much of such money realized from the sale of fish so removed may be used by the state game and fish commissioner in continuing the work of removal, and all surplus money must be turned into the game protection fund. The Missouri fish commission may take or cause to be taken under the supervision of the state game and fish commissioner

any fish from public waters in any manner, at any time, for any purpose connected with the fish culture or with scientific observation. (Laws 1909, p. 519.)

Sec. 6572. Permits to be issued, when—fee.—Upon the payment of two dollars, unless otherwise provided, to the state game and fish commissioner, he is authorized to issue permits according to the provisions of this article. (Laws 1909, p. 519.)

Sec. 6573. Certain officers deputy wardens.—All sheriffs, deputy sheriffs, marshals, constables and other peace officers are hereby declared to be *ex officio* game and fish commissioners. (Laws 1909, p. 519.)

Sec. 6574. License to hunt.—It shall be unlawful for any person, after the passage of this article, to hunt in this state without first obtaining a license permitting him or her to do so. Such license shall be dated when issued, and shall authorize the person named therein to hunt during the calendar year of issue, and then subject only to the regulations and restrictions provided by law. (Laws 1909, p. 519.)

Sec. 6575. License to nonresidents, how procured—must keep record—license to residents, how procured.—The state game and fish commissioner shall issue licenses to nonresidents for hunting in the manner and under the conditions hereinafter stated. All fees for such licenses shall be paid by the state game and fish commissioner to the secretary of state, and shall be by him paid to the state treasurer. The state game and fish commissioner shall procure the printing of all licenses for hunting, and a record of such licenses issued to nonresidents shall be kept in the office of the state game and fish commissioner. All hunting licenses shall be numbered consecutively at the time they are printed. Resident licenses shall be furnished by the state game and fish commissioner to the clerks of the several counties and the license collector of the city of St. Louis, who shall issue the same upon the terms and conditions herein provided. Not more than one license shall be issued to the same person in any one calendar year. (Laws 1909, p. 519.)

Sec. 6576. Application of nonresidents must contain what—fee.—Any nonresident of this state may secure a license for hunting by filing his (or

her) affidavit with the state game and fish commissioner, stating his (or her) name, age, place of residence, postoffice address, color of his (or her) hair and eyes, and the fact whether he (or she) can or cannot write his (or her) own name and paying to the state game and fish commissioner the sum of twenty-five dollars. (Laws 1909, p. 519.)

Sec. 6577. Resident license, by whom issued—record kept—clerk's fee—monthly remittance and report—penalty.—County clerks and the license collector of the city of St. Louis shall issue resident licenses, under the seal of their office, to all persons complying with the provisions of this article, and shall sign the same, and before such license shall become operative, and before the licensee shall have the right thereunder to hunt, he shall sign his name, in ink, on the margin of the license paper. He shall keep a complete record of all licenses issued in a book, to be furnished by the state game and fish commissioner, which record shall remain in his office and be open to the inspection of the public at all times. Such clerk and the license collector of the city of St. Louis shall retain, out of the money received for each license issued, the sum of fifteen cents, which shall cover the swearing of the applicant to the affidavit herein referred to, and all other services under this article, and shall pay the balance to the state treasurer on the first day of each month, and report to the state game and fish commissioner the number of licenses issued and the amount of money remitted to the state treasurer on the first day of each month. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five dollars nor more than one hundred dollars. (Laws 1909, p. 519.)

See *State v. Moody*, 202 Mo. 120.

Sec. 6578. Resident or state license, good where—qualifications of applicant—fee—proviso.—Resident licenses shall be issued as county resident licenses and state resident licenses. A county resident license shall entitle the holder to hunt only in the county wherein such license is issued, and any adjoining county. A state resident license shall entitle the holder to hunt in all counties in the state of Missouri. Any person who has been a *bona fide*

resident of this state for six months last past may secure a license for himself (or herself) by filing his (or her) affidavit with the clerk of the county where he (or she) resides, stating his (or her) age, name, place of residence, postoffice address, the color of his (or her) hair and eyes, and the fact whether he (or she) can or cannot write his (or her) name, paying to said clerk one dollar for a license to hunt in the county in which he resides and any county adjoining same, or five dollars for a state resident license: *Provided*, that this section shall not apply to owners and tenants of farm lands used exclusively for agricultural purposes, and members of their families under the age of twenty-one years, who may hunt on their own or leased lands without obtaining a hunting license. (Laws 1909, p. 519.)

See *Ex parte Helton*, 117 A. 609.

Sec. 6579. Duties of license collector St. Louis city same as county clerk.—For the purpose of carrying on the provisions of this article, the license collector of the city of St. Louis shall correspond to the county clerks of the various counties in this state. Such license collector shall be provided with the necessary license blanks and affidavit blanks and license record. He shall issue resident hunters' licenses and collect therefor the fee required in section 6578 of this article, and for each license issued such license collector shall retain from such money collected a fee of fifteen cents. He shall keep such records relating to licenses issued and make such reports to the state game and fish commissioner concerning the same as the provisions of this article require of county clerks. (Laws 1909, p. 519.)

Sec. 6580. License may be inspected, by whom—penalty for refusal.—It is hereby declared to be the duty of every person holding a hunter's license in the state to present the same for inspection by the game and fish commissioner or any of his deputies, or any other state officer, or any sheriff, marshal or constable. Any person holding such license and refusing to present the same when a proper demand is made therefor, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars. (Laws 1909, p. 519.)

Sec. 6581. Penalty for hunting without license.

Any person who shall hunt in this state without being at the time of such hunting in possession of a license, as herein provided, duly issued to him (or her), which license shall cover the period in which he (or she) shall be hunting, or who shall furnish to another person a license issued to him (or her), shall be fined not less than twenty-five dollars nor more than one hundred dollars and costs of prosecution. (Laws 1909, p. 519.)

Sec. 6582. Penalty for fraudulently procuring license.—Any person who shall make to any person authorized to issue hunting licenses a false statement, or who shall change or alter in any manner a hunting license, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution. (Laws 1909, p. 519.)

Sec. 6583. Licenses distinguishable in color—distribution of—annual return and report.—The licenses for state residents and county residents and nonresidents shall be printed so different in color as to be easily distinguished. The state game and fish commissioner shall deliver to the clerk of each county and the license collector of the city of St. Louis, as soon as this article goes into effect, and at least ten days before the first day of January of each year thereafter, as many licenses as may be required, and shall charge said clerk and collector with the number so issued to him. On the fifteenth day of December of each year, and within ten days thereafter, each county clerk and collector of St. Louis shall return to the state game and fish commissioner all unused licenses and unused stubs of the licenses issued, with a report of the number of licenses issued, amount of money received, amount retained by him, and the amount paid over to the state treasurer for hunting licenses issued. (Laws 1909, p. 519.)

Sec. 6584. Schedule of game and open dates on back of license—licensee shall report to commissioner.—On the back of each hunting license the state game and fish commissioner shall cause to be printed a table showing the names of birds and animals that may be killed, together with a list of days; and the holder of such license shall set down in the proper place the number and name of each kind of

bird or animal killed, and return such license, with such table properly filled, to the state game and fish commissioner. (Laws 1909, p. 519.)

Sec. 6585. "Game protection fund," availability and restrictions.—All moneys sent to the state treasurer in payment of hunting licenses, other licenses, penalties and forfeitures shall be set aside by the state treasurer and shall constitute a fund known as the "game protection fund," for the payment of salary of the state game and fish commissioner and his necessary expenses; for the payment of deputy game and fish commissioners and their necessary expenses; also, the buying, shipping, keeping, propagating and preserving of game. The liability of the state for per diem, salaries and expenses of deputy game commissioners appointed under this article or otherwise, and for all other services and expenses incurred for any purpose or in consequence of this article, shall be limited to the amount of moneys in the game protection fund, and in no event shall the state pay any such salaries or expenses, or be liable in any way therefor, except to the extent of such game protection fund, any contract, express or implied, of the state game and fish commissioner to the contrary notwithstanding. And said state game and fish commissioner shall not issue any voucher, nor shall the state auditor approve any voucher if issued by the state game and fish commissioner under the provisions of this article, or otherwise, for any such per diem, salary, services or other expenses of any kind, unless the money to pay such voucher shall at the time be on hand to pay the same. (Laws 1909, p. 519.)

Similar provisions in the act of 1905, p. 158, for disposition of "fines, penalties, forfeitures" were held unconstitutional, and the prosecutions and penalties held to be criminal. *State ex rel. v. Warner*, 197 Mo. 650.

Sec. 6586. Trials, duty to report fines.—It shall be the duty of every justice of the peace, magistrate or clerk of the court before whom any prosecution under this article is commenced, or shall go on appeal, and within twenty days after the trial or dismissal thereof, to report in writing the result thereof, and the amount of fine collected, if any, to the state game and fish commissioner. (Laws 1909, p. 519.)

Sec. 6587. Penalties collected, how disposed of.

Moneys collected from penalties or forfeitures under this article, belonging to the game protective fund, shall be paid over by the officer authorized to collect said money to the state treasurer on or before the first day of each month. (Laws 1909, p. 519.)

Sec. 6588. State treasurer to make monthly report to commissioner.—The state treasurer shall report on the first day of each month to the state game and fish commissioner the exact amount of money in the game protection fund. (Laws 1909, p. 519.)

Sec. 6589. Shipping, owner to accompany game—penalty.—It is unlawful and is prohibited for any person who has lawfully killed the same in this state to take, ship or transport out of this state, or ship or transport within the state, any of the birds or game protected by the laws of this state, unless the same shall be in personal possession of or carried openly as baggage or express by the owner thereof, and such owner shall have in his (or her) possession at the time a nonresident or resident license duly issued to him (or her) under the provisions of law, and shall accompany the said birds or game on the same train or other conveyance of the common carrier. Any person who shall violate any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. (Laws 1909, p. 519.)

No hunter can lawfully ship game unless he has a license. *Ex parte Helton*, 117 A. 609.

Sec. 6590. Transportation company must inquire for license before shipping.—Any person, company, corporation or common carrier, before shipping or transporting any animals or birds, must ascertain if any person offering for shipment such birds or game is in possession of a hunter's license duly issued to him (or her) and covering the period when such shipment is offered. Such birds or game may be shipped or transported, provided it is accompanied by the shipper from place of shipment to destination, if within the state, and to state line, if without this state. No transportation company or common carrier shall receive for transportation or transport any of the birds or game protected by this article unless the same shall be received for transportation,

carried and delivered pursuant to the provisions of this article, and shall only be received for shipment, carried or delivered during the season or time which the laws of this state shall fix as the open season for transportation of such birds or game. Any person, corporation, company or common carrier violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars. (Laws 1909, p. 519.)

No person can receive for shipment, and no carrier can carry, game unless lawfully killed. The only evidence required that the game has been lawfully killed is that the person having the game and offering it for shipment has a license issued to *him*. Ex parte Helton, 117 A. 609; State v. Koock, 202 Mo. 223.

Sec. 6591. Providing for the shipment and sale of deer and elk.—To encourage raising deer and elk in this state in captivity, nothing in this act shall be construed to prevent the shipment or sale of deer or elk, alive, or dead, from preserves when such deer or elk are raised in captivity, such shipments or sales to be made in a manner prescribed by the state game and fish commissioner. (New section.)

Approved March 27, 1911.

An act to amend article 8, chapter 36, of the Revised Statutes of Missouri of 1909, entitled "Crimes and punishments," and relating to miscellaneous offenses, by adding thereto a new section, to be known as section 4893a.

Be it enacted by the general assembly of the state of Missouri, as follows:

Section 1. That article 8 of chapter 36 of the Revised Statutes of Missouri of 1909, be and the same is hereby amended by adding thereto a new section to be known as section 4893a, which shall read as follows:

Section 4893a. Every person who shall be found hunting, with gun or dog, upon the enclosed, improved or cultivated lands of another, or shall enter the same to catch or kill game of any kind, without the consent of the owner or person in charge of such lands, shall, on complaint of such owner or person in charge of such lands, and upon conviction therefor, be fined not exceeding ten dollars.

Approved March 27, 1911.

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